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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/773,242

02/09/2004

Hong-Jik Doo

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7168

38209

7590

09/14/2007

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EXAMINER

JOHNSON III, HENRY M

ART UNIT

PAPER NUMBER

3739

MAIL DATE

DELIVERY MODE

09/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/773,242

Applicant(s)

DOO, HONG-JIK

Examiner

Henry M. Johnson, III

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-26 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Arguments

Applicant's arguments filed August 8, 2007 have been fully considered but they are not persuasive. The addition on an intended use to the preamble has no impact on the cited structure. No means for providing heat (thermotherapy) is positively cited in the claims except for the motion of the massaging components. Thus the cited art inherently provides such thermotherapy. The foot thermo-pressure plate is disclosed by the Applicant as prior art and is therefore well known in the art making its inclusion obvious.

If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. Sakraida and Anderson's-Black Rock are illustrative. A court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions (KSR INTERNATIONAL CO. v. TELEFLEX INC. ET AL.; SUPREME COURT OF THE UNITED STATES, No. 04-1350; ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT; April 30, 2007).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13 and 20-25 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,947,833 to Yamasaki. Yamasaki discloses a bed-type massaging apparatus having an

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elongate frame with a middle hinge so that the frame divides the bed into two parts which can be folded one over onto the other (abstract). A pair of roller-type massaging devices are supported on each of the frame halves and include rollers which extend transversely of the bed (abstract). The rollers are interpreted as both spinal corrector and therapy director. The massaging devices can be simultaneously moved by a motor in a pattern whereby they are simultaneously moved inwardly toward the center of the bed and then outwardly away from the center of the bed (abstract). Yamasaki teaches a flexible cover (mat) that extends over the upper surface (Col. 3, lines 59-62). The statement of the preamble of "pressurizing and fomenting the spine" is related to intended use with no cited apparatus structure. The movement of the rollers of Yamasaki inherently provides both pressurizing and fomenting the spine.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 2,461,102 to Ackerman. Yamasaki discloses a bed-type massaging apparatus having an elongate frame with a middle hinge so that the frame divides the bed into two parts which can be folded one over onto the other (abstract). A pair of roller-type massaging devices are supported on each of the frame halves and include rollers which extend transversely of the bed (abstract). The rollers are interpreted as both spinal corrector and therapy director. The massaging devices can be simultaneously moved by a

motor in a pattern whereby they are simultaneously moved inwardly toward the center of the bed and then outwardly away from the center of the bed (abstract). Yamasaki teaches a flexible cover that extends over the upper surface (Col. 3, lines 59-62). The portion of the cover over one part of the frame is interpreted as the upper therapy mat and the portion over the other as the lower therapy mat. Yamasaki does not disclose a foot pressure plate. Ackerman teaches

an apparatus with motor driven rollers that move along a portion of the length of the device (Fig. 1, # 30) and an additional set of rollers at an end of the device that provide pressure to the feet of a person lying on the device (Col. 2, lines 41-50). The set of rollers is interpreted as a foot pressure plate. It would have been obvious to one skilled in the art to incorporate the foot pressure device as taught by Ackerman in the apparatus of Yamasaki to provide a complementary treatment to the torso therapy as Ackerman clearly teach the combination. Further, the use of a pressure plate is disclosed by the Applicant as prior art.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 2,461,102 to Ackerman as applied to claim 1 above and further in view of U.S. Patent 5,165,390 to Fleetwood. Yamasaki and Ackerman are discussed above, but do not teach removable panels to access the workings of the device. Fleetwood disclose a massage apparatus with a motor driven massaging means (Col. 2, lines 44-54) and further teaches removable subassemblies or panels to allow access to the interior of the device (Col. 2, lines 24-38). It would have been obvious to one skilled in the art to provide internal access as taught by Fleetwood in the invention of Yamasaki in view of Ackerman as providing such access is dictated by common sense to allow serviceability.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 2,461,102 to Ackerman as applied to claim 1 above and further in view of U.S. Patent 6,705,234 to Miller et al. Yamasaki and Ackerman are

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discussed above, but do not teach a folding structure with a center portion and two end portions. Miller et al. disclose a folding table with a center section (Fig. 1, # 43) and two end portions hinged to the center section (folding part). It would have been obvious to one skilled in the art to use the three section folding arrangement as taught by Miller et al. in the invention of Yamasaki in view of Ackerman as an alternative folding arrangement. A skilled artisan would look to any art with folding tables, beds, etc. to determine an optimal folding means.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 2,461,102 to Ackerman in view of U.S. Patent 6,705,234 to Miller et al. as applied to claim 4 above, and further in view of U.S. Patent 4,303,018 to Lehmann. Yamasaki, Ackerman and Miller et al. are discussed above, but do not teach pads between parts of the foldable portions. Lehmann teaches a folding table with pads between portions of the structure, thus teaching the use of such pads to protect the parts from damage when touching. The teaching is interpreted as the use of pads regardless of the intended use. It would have been obvious to one skilled in the art to use protecting pads as taught by Lehmann in the invention of Yamasaki in view of Ackerman in view of Miller et al. to reduce wear on the parts or provide a soft interface between parts. One of skill in the art would look to other folding devices to learn of issues or problems regarding the folding and use such solutions as is provided in the prior art.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 2,461,102 to Ackerman in view of U.S. Patent 6,705,234 to Miller et al. as applied to claim 4 above, and further in view of U.S. Patent 5,283,919 to Grant. Yamasaki and Miller et al. are discussed above, but do not teach latching and safety devices for a folding structure. Grant teaches a folding trauma stretcher that includes a support structure for securing the stretcher in an open, unfolded position, the

structure including brace arms for preventing the legs from pivoting with respect to the frame assemblies and a stop plate and locking means for preventing the frame members from pivoting with respect to each other (abstract). A hook is disclosed to keep the device from unfolding when in the folded configuration (Fig. 4). The stretcher includes a support framework including linkages, bracing members and stop plates, which secure the frame assemblies when the stretcher is in its open position thereby preventing the open stretcher from collapsing (Col. 3, lines 35-45). Clearly, such a collapse would present a danger to a person's hand and fingers, so the plates serve to reduce that danger. It would have been obvious to one skilled in the art to provide the various safety features as taught by Grant in the invention of Yamasaki in view of Ackerman in view of Miller et al. to insure the device maintained a desired configuration and to protect the operator of the device.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 2,461,102 to Ackerman and further in view of U.S. Patent 6,705,234 to Miller et al. Yamasaki and Ackerman are discussed above, but do not teach a folding structure with a center portion and two end portions. Miller et al. disclose a folding table with a center section (Fig. 1, # 43) and two end portions hinged to the center section (folding part). It would have been obvious to one skilled in the art to use the three section folding arrangement as taught by Miller et al. in the invention of Yamasaki in view of Ackerman as an alternative folding arrangement. A skilled artisan would look to any art with folding tables, beds, etc. to determine an optimal folding means. Granting patent protection to advances that would occur in the ordinary course without real innovation retards progress and may, in the case of patents combining previously known elements, deprive prior inventions of their value or utility (KSR INTERNATIONAL CO. v. TELEFLEX INC. ET AL.; SUPREME

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COURT OF THE UNITED STATES, No. 04-1350; ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT; April 30, 2007).

Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 2,461,102 to Ackerman in view of U.S. Patent 6,705,234 to Miller et al. as applied to claims 4 and 10, and further in view of U.S. Patent 3,884,160 to Gutierrez. Yamasaki, Ackerman and Miller et al. are discussed above, but do not teach legs coupled to fold as the table is folded. Gutierrez teaches a folding table with legs that rotate and fold as the table is folded (Fig. 3). It would have been obvious to one skilled in the art to include the folding legs as taught by Gutierrez in the invention of Yamasaki in view of Ackerman in view of Miller et al. to provide a more convenient folding arrangement as found in related art.

Claims 14, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki as applied to claim 13 above, and further in view of U.S. Patent 6,705,234 to Miller et al. Yamasaki is discussed above, but does not teach a folding structure with a center portion and two end portions. Miller et al. disclose a folding table with a center section (Fig. 1, # 43) and two end portions hinged to the center section (folding part). It would have been obvious to one skilled in the art to use the three section folding arrangement as taught by Miller et al. in the invention of Yamasaki as an alternative folding arrangement. A skilled artisan would look to any art with folding tables, beds, etc. to determine an optimal folding means.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 6,705,234 to Miller et al. as applied to claim 14 above, and further in view of U.S. Patent 2,461,102 to Ackerman. All have been previously discussed. It would have been obvious to one skilled in the art to include the foot pressure plate

as taught by Ackerman in the apparatus of Yamasaki in view of Miller et al. to provide a complementary treatment to the torso therapy as Ackerman clearly teach the combination.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 6,705,234 to Miller et al. as applied to claim 14 above, and further in view of U.S. Patent 5,283,919 to Grant. Yamasaki and Miller et al. are discussed above, but do not teach latching and safety devices for a folding structure. Grant teaches a folding trauma stretcher that includes a support structure for securing the stretcher in an open, unfolded position, the structure including brace arms for preventing the legs from pivoting with respect to the frame assemblies and a stop plate and locking means for preventing the frame members from pivoting with respect to each other (abstract). A hook is disclosed to keep the device from unfolding when in the folded configuration (Fig. 4). The stretcher includes a support framework including linkages, bracing members and stop plates, which secure the frame assemblies when the stretcher is in its open position thereby preventing the open stretcher from collapsing (Col. 3, lines 35-45). Clearly, such a collapse would present a danger to a person's hand and fingers, so the plates serve to reduce that danger. It would have been obvious to one skilled in the art to provide the various safety features as taught by Grant in the invention of Yamasaki in view of Miller et al. to insure the device maintained a desired configuration and to protect the operator of the device.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki in view of U.S. Patent 6,705,234 to Miller et al. as applied to claim 14 above, and further in view of U.S. Patent 4,303,018 to Lehmann. Yamasaki and Miller et al. are discussed above, but do not teach pads between parts of the foldable portions. Lehmann teaches a folding table with pads between portions of the structure, thus teaching the use of such pads to protect the parts from damage when touching. The teaching is interpreted as the

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use of pads regardless of the intended use. It would have been obvious to one skilled in the art to use protecting pads as taught by Lehmann in the invention of Yamasaki in view of Miller et al. to reduce wear on the parts or provide a soft interface between parts. One of skill in the art would look to other folding devices to learn of issues or problems regarding the folding and use such solutions as is provided in the prior art.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,947,833 to Yamasaki as applied to claim 21 above, and further in view of U.S. Patent 2,461,102 to Ackerman. All have been previously discussed. It would have been obvious to one skilled in the art to include the foot pressure plate as taught by Ackerman in the apparatus of Yamasaki to provide a complementary treatment to the torso therapy as Ackerman clearly teach the combination.

Allowable Subject Matter

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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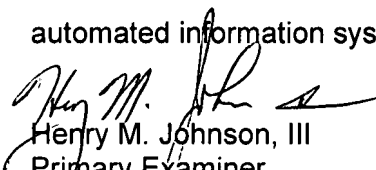
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Henry M. Johnson, III
Primary Examiner
Art Unit 3739